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SUBCOMMITTEE ON SELECT REVENUE MEASURES
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS ON A TAX CREDIT FOR CERTAIN NONRECURRING EXPENSES RELATING TO ADOPTION OF A CHILD WITH SPECIAL NEEDS

NOVEMBER 8, 1991

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FOR IMMEDIATE RELEASE
FRIDAY, JULY 26, 1991

PRESS RELEASE #8
SUBCOMMITTEE ON SELECT REVENUE MEASURES
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE CHARLES B. RANGEL (D., N.Y.), CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON A TAX CREDIT FOR CERTAIN NONRECURRING EXPENSES RELATING TO ADOPTION OF A CHILD WITH SPECIAL NEEDS

The Honorable Charles B. Rangel (D., N.Y.), Chairman, Subcommittee on Select Revenue Measures, Committee on Ways and Means, U.S. House of Representatives, announced today that the Subcommittee on Select Revenue Measures is requesting written comments for the record from all interested parties on (1) section 601 (the Credit for Certain Adoption Expenses) of H.R. 2571, the "Family Preservation Act of 1991," which allows a tax credit equal to 50 percent of the first $4,000 of certain nonrecurring expenses (e.g. adoption fees, court costs, attorney fees) relating to the adoption of a child with special needs; and (2) the Administration's proposal, included in the President's fiscal year 1992 budget, to permit a deduction from income for expenses up to a maximum of $3,000 incurred as the result of the adoption of a special needs child. For purposes of both the credit and the deduction, a child with special needs is any child who by virtue of special conditions, such as age, physical or mental handicap, or combination of circumstances, is difficult to place for adoption as set forth under the Federal adoption program.

BACKGROUND

The Tax Reform Act of 1986 (the 1986 Act) repealed the deduction for adoption expenses associated with special needs children, effective for taxable years beginning on or after January 1, 1987. As a substitute for the deduction, the 1986 Act established a new outlay program under the existing Title IV-E Adoption Assistance Program to reimburse expenses associated with the adoption of these children. One component of the Adoption Assistance Program requires States to reimburse certain costs incurred for the adoption of special needs children. Reimbursable expenses include those associated directly with the adoption process, such as legal costs, social service review, and transportation costs. The Federal Government shares 50 percent of these costs up to a maximum Federal share of $1,000 per child.

Because some States have not established an adoption assistance program that effectively or efficiently achieves the goal of the outlay program, many concerned agencies involved with the placement and care of children available for adoption, including children with special needs, have requested repeatedly that the Federal Government play a greater role in adoption. H.R. 2571 and the Administration's proposal are responses to these appeals.

In announcing this request for written testimony, Chairman Rangel stated: "It is my understanding that recent studies have indicated that at any given time there are over 30,000 children with special needs in the foster care system who are legally free for adoption. At the same time, approximately two million couples and individuals are waiting to adopt a child, including a special needs child. Many of these people are unable to achieve this goal because of prohibitive adoption costs. The credit for certain adoption expenses contained in the Family Preservation Act of 1991, and the deduction allowance contained in the Administration's 1992 budget proposal are intended by their sponsors to reduce the financial barrier currently faced by many of these families and individuals who are willing to adopt special needs children. The efficiency and appropriateness of these methods will be reviewed by the Subcommittee."

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business Wednesday, August 28, 1991, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

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STATEMENT OF STEVEN E. HUMERICKHOUSE
COORDINATOR OF LEGISLATIVE AFFAIRS
ADOPTIVE FAMILIES OF AMERICA

Thank you for the opportunity to comment on tax issues on behalf of adoptive families throughout the United States. I am the coordinator for legislative affairs for Adoptive Families of America. AFA is a national, nonprofit, membership organization of 15,000 families and individuals and more than 275 adoptive parent support groups. We provide problem-solving assistance and information about the challenges of adoption to members of adoptive and prospective adoptive families.

The issue you are taking up concerning tax deductions or credits for adoption expenses is of deep concern to the members of Adoptive Families of America. The current lack of tax relief is also a barrier to the adoption of America's waiting children.

The expense of adopting a child, whether domestically or from another country, has gone up dramatically in the past decade. A 1987 study by the National Committee for Adoption found the cost of the adoption of a U.S. child through an agency to approach $15,000. For the adoption of a child from Latin America or many Asian countries, the cost has risen to this level or above, as well.

For the average American family these expenses are astronomical. For many, they are unbearable. The dream of a family for childless couples and singles has become a nightmare of rising expense. These costs work to shut out from adoption many of those whom we believe would make the best possible parents: teachers, social workers, the clergy--indeed, almost anyone whose income is not at least upper middle class.

The lack of a tax deduction or credit for adoption expenses is also a barrier to the adoption of America's waiting children. Over 70,000 children wait for homes and families to love and care for them. These children are already legally free for adoption or have adoption as their plan. But still they wait. Governments--federal and state--must do everything possible to bring down the barriers keeping these children from permanent homes. They deserve nothing less.

Of paramount concern to Adoptive Families of America is the prevalant misunderstanding of the programs and assistance available to families who adopt these waiting children. It is sometimes misunderstood that <u>all</u> children with special needs who are legally free for adoption are eligible for current and pending adoption subsidy, expense reimbursement, and tax relief programs. However, that is not the case. The tax relief proposed in the legislation under consideration today (S.4, S.268, H.R.2571) allows each state its own interpretation of "children with special needs." Restricting relief to families adopting only **certain** children with special needs can result in even the neediest children falling through the cracks. (Incidentally, AFA strongly supports all other provisions of H.R.2571, The Family Preservation Act.)

Debra McElroy from Denver, Colorado, can relate the need for tax incentives in the adoption of <u>all</u> children. She writes:

> It is always assumed that children with special needs, once a family who wants them is identified, come into that family without adoption expenses and with government subsidies that cover all their needs; that they are somehow "free" for the asking; that state agencies are eager to place these waiting children with families. But this is not the case.
>
> My own son, Nathaniel, is in every way a child with special needs, but because he was in the custody of a private agency--instead of the state of Florida--there

was no help for us in the cost of his adoption or with his medical needs. Nathaniel is black and was listed in the photo book as 1 1/2 months premature--his first two weeks were spent in a pediatric ICU--with "failure to thrive" and developmental delays. Because the state of Florida did not have control, there was little cooperation in the processing of paperwork. There was also no purchase of services available, no Medicaid or state coverage of the child's medical bills at any time, and no travel expense reimbursement to see our child or to bring him home. But we loved him from the moment we saw him.

It took all of our savings and some borrowing from relatives, but we finally were able to bring him home in December, 1989, and finalized his adoption in July, 1990. Our total cost for his adoption, not including medical exams required prior to finalization, was $16,000.

But we were lucky. We have a beautiful son to love. Friends of ours were not so fortunate. They tried to adopt a five-month-old girl classified as special needs from Washington State. This child was black, two months premature, with a club foot requiring some amputation, cataracts (needing surgery), and dwarfism. The State of Washington offered no travel expense, no subsidy, and no purchase of services. Because she was special needs classified, however, they would <u>probably</u> have reimbursed some of the medical co-payments, but only up to $1,000.

My friends wanted this little girl. Her physical situation was not a difficulty for them since they had previous experience with most of her defects. But the estimated cost of almost $8,000 for the adoption, plus the expense of all the child's medical needs, were severe hardships, particularly when they considered the financial risks that could arise from the medical needs of their two other adopted children with special needs. In the end, they had to make the painful decision not to adopt this little girl, in order to be able to care for the children they already had. As far as I know, the child still waits for a family to call her own.

These cases illustrate how imperative it is that either tax deductions or credits not be restricted to certain children as defined by the states. Too many children with special needs are falling through the cracks. As Debra McElroy's experiences show, not all of these children come with subsidies to cover the costs, and many of the subsidies are of inadequate amounts.

The Fairness for Adopting Families Act (S.709, Hatch; H.R.1515, Lehman, W.) seeks to give back to <u>all</u> adoptive families some of the expense of their child's adoption through a tax deduction, just as families who give birth to a child receive tax relief from their family building expenses. With families taking out loans, second mortgages, and extra credit cards just to meet the costs of an adoption, it is clear how a tax deduction would affect a family's bottom line, enabling the family to start life together without the great debt burden many adoptive families now confront.

Adoptive families have been told for years that they did not merit tax considerations for their expenses because people would adopt anyway--the government did not need to provide a tax incentive. I would argue that neither does the government need to provide incentives for families to give birth to children--

they will do it anyway--and tax relief for adoption costs are overdue as a matter of equity. All the ways in which a person chooses to build his or her family should be treated equally by the government. This is currently not the case with adoptive families.

Especially considering the plight of America's waiting children, any provision which excludes some children for any reason--but especially for the arbitrary reasoning that many states give--is an unconscionable act, when better, all-inclusive legislation is available and has been available for as long as has the Fairness for Adopting Families Act. It is long past time to allow adopting families the relief they need and to bring down the barriers keeping waiting children from finding permanent homes.

In comparison with the "Fairness" bill, the President's proposal as embodied in S.4, the Child Welfare and Preventative Services Act, is shallow and evasive of the goal to lower barriers to waiting children. With a budget estimate of no more than $3 million per year, very little good will come of the proposal. It is quite inexpensive to the Treasury, since it limits both the dollar amount ($3,000 of qualified expenses) and, more importantly, the number of children with special needs who would be eligible. Of course, the adoption community is concerned with budget deficit matters because of their impact on our families, but we do not expect the budget to be balanced on the backs of waiting children. The President's proposal is too little money for too few children.

The Downey bill, on the other hand, is indeed the right amount of money. A tax credit would be extremely beneficial to families whose children have special needs, as it would be to all families who adopt. It would help bring down the barriers by helping with the expense of the adoption of waiting children. But as with the President's proposal, it is flawed in its scope. Not all children with special needs would be eligible. It relies once again on the state definition of special needs.

While credits would indeed be wonderful help to all adoptive families, and Adoptive Families of America supports the concept of credits as proposed in H.R.2571 and also the Omnibus Adoption Act (H.R.1751) by Representative Chris Smith, we are inclined to believe that at this difficult budgetary time, credits may be too expensive and therefore too difficult to become law.

We think that the best compromise between the inadequacy of the President's proposal and the limited scope, yet relatively high cost, of Downey is the all-inclusive "Fairness for Adopting Families Act." At an estimated $26 million, the cost of "Fairness" is not out of line, considering that all children with special needs will be included--the ultimate goal. Also, Senator Hatch, well aware of the budget-neutral agreement of last year, is working on legislation to offset the cost of the bill.

In conclusion, while all the tax proposals are well-meaning, and each would have some effect in providing homes for the children who wait, clearly the only bill far-reaching enough to cover all children with special needs is the "Fairness for Adopting Families Act." If we are attempting to provide homes for these children, we must do everything possible for all of them. To do less is to betray the very children we seek to help.

AMERICAN ACADEMY OF ADOPTION ATTORNEYS
P.O. BOX 33053
WASHINGTON, D.C. 20033-0053

AUG 14 [illegible]

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August 13, 1991

The Honorable Charles B. Rangel
Chairman, Subcommittee on Select
Revenue Measures
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Rangel:

I am writing on behalf of the American Academy of Adoption Attorneys (AAAA) in response to your request for written comments on the proposed tax credit relating to the adoption of special needs children contained in H.R. 2571, The Family Preservation Act of 1991. Attached is a statement detailing AAAA's position regarding this legislation.

AAAA is a national association of over 150 highly qualified attorneys who practice in the areas of agency and independent adoption. As experienced adoption attorneys, AAAA members are acutely aware of the often prohibitive expenses associated with adopting a child. The adoption of special needs children, in particular, often requires the expenditure of thousands of dollars in medical fees alone, a factor that may deter people otherwise interested in adopting these children.

AAAA supports legislation that would provide financial incentives to prospective adoptive parents in the form of tax credits. However, we believe that the provision in H.R. 2571 is too limited in scope and in amount to fulfill the needs of adopting families. AAAA favors the Fairness for Adopting Families Act (H.R. 1515 and S. 709), a bill that would enable adopting families to deduct up to $5,000.00 from their federal taxes for expenses related to the adoption of special needs children as well as non special needs children.

If you have any questions or need any assistance in this matter, please contact me.

Very truly yours,

Mark T. McDermott

Enclosure

WRITTEN COMMENTS ON
A TAX CREDIT FOR CERTAIN NON-RECURRING EXPENSES
RELATING TO ADOPTION OF A CHILD WITH SPECIAL NEEDS

The American Academy of Adoption Attorneys submits the following:

1. The tax credit contained in Section 601 of H.R. 2571 does not provide enough federal funds to adopting families to adequately reimburse them for their adoption related expenses. The Fairness for Adopting Families Act (H.R. 1515 and S. 709) would more adequately serve the financial needs of adopting families by providing a $5,000.00 federal tax deduction for adoption related expenses.

2. Section 601 of H.R. 2571 is too limited in the scope of its coverage. The benefits of the tax credit contained in H.R. 2571 would only extend to those families adopting special needs children as defined by Section 601. The Fairness for Adopting Families Act would provide needed financial support to a much broader category of adopting families including those families adopting non special needs children as well as special needs children.

COMMENTS OF THE AMERICAN PUBLIC WELFARE ASSOCIATION

The American Public Welfare Association (APWA) appreciates the opportunity to submit written comments to the House Ways and Means Subcommittee on Select Revenue Measures on Section 601 of The Family Preservation Act of 1991 (H.R. 2571) which would establish a tax credit equal to 50 percent of the first $4,000 of certain nonrecurring expenses relating to the adoption of a child with special needs; and a proposal included in the Administration's FY 92 budget proposal that would allow a tax deduction--of up to $3,000--for expenses incurred as the result of adoption of a child with special needs. A similar proposal is included in The Child Welfare and Preventive Services Act (S.4) introduced by Sen. Lloyd Bentsen.

APWA is a 61 year-old nonprofit bipartisan organization representing all the state human service departments, local public welfare agencies, and individuals concerned with social welfare policy and practice. In this capacity, APWA represents the state and local human service and child welfare administrators responsible for administering the Title IV-E foster care and adoption assistance programs. APWA affiliate groups including the Association of Administrators of the Interstate Compact on the Placement of Children, the National Association of Public Child Welfare Administrators, and the American Association of Public Welfare Attorneys are also directly involved in the operation and administration of the Title IV-E program. APWA also provides Secretariat services to the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance which regulates and coordinates services among states under the Title IV-E adoption assistance program. In addition, since 1982 APWA has administered the Voluntary Cooperative Information System (VCIS) under a grant from the DHHS Human Development Services (now included in the Administration for Children and Families) that provides the only national aggregate data on the number and characteristics of children in substitute and adoptive care.

Background

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) created the Title IV-E adoption assistance program to promote and encourage the adoption of children with special needs. The Federal government shares with the states the costs of assisting parents who adopt AFDC-or SSI-eligible children with special needs. In addition, the current program provides federal matching funds to reimburse the nonrecurring adoption expenses of adoptive parents of special needs children (regardless of AFDC or SSI eligibility).

A child with special needs is defined in Section 473(c) of Title IV-E as a child to whom the state determines that there is a specific condition or situation (such as ethnic background, age or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) which prevents placement without adoption assistance. Before a child can be considered to be a child with special needs, the state must first determine that the child cannot or should not be returned to the biological family and that reasonable efforts have been made to place the child without providing adoption assistance. States are given flexibility in defining special needs eligibility criteria and determining whether a child is eligible.

The Tax Reform Act of 1986 (P.L. 99-514) repealed a provision of the tax code under which adoptive parents could claim up to $1,500 of certain nonrecurring expenses of the adoption of a special needs child as a federal tax deduction. The Tax Reform Act established instead the current reimbursement mechanism, effective January 1, 1987, that requires states to establish a program to "make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such (special needs) child, directly through the state agency or through another public or nonprofit private agency . . . ." Adoption expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other costs which are one-time-only expenses directly related to the adoption of a special needs child. The federal government will match 50 percent of the amount not in excess of $2,000 per adoption. States may set a lower or higher ceiling for the reimbursement but the federal contribution is only available for reimbursements of not more than $2,000. States are also required to document and justify the rationale for setting the ceiling on reimbursements at a rate lower than the $2,000 federal cap.

Current Program Operation

Since the publication of final regulations implementing state reimbursement of nonrecurring expenses in the adoption of special needs children, the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance (AAICAMA), whose Secretariat services are provided by APWA, has monitored the implementation of the program by the states.

The Secretariat of AAICAMA surveyed states in May 1991 to determine utilization of the program and reimbursement levels. A report on this survey was published in June 1991 (Issue Brief Number XVII: Update II--Reimbursement of Nonrecurring Adoption Expenses). State-by-state responses are included as an appendix to these comments.

An initial concern of many administrators about the reimbursement program was the potential for significant administrative and benefit costs especially in connection with non-Title IV-E children. The survey indicates, however, that this has not been the case. First, average reimbursement amounts have not equalled the $2,000 federal cap. The average payment is $617. Second, requests for reimbursement from non-public agency adoption sources have been far less than many administrators and others expected. Third, expenses claimed have not been excessively costly because many items allowed to be reimbursed already are covered under the states' adoption programs. In addition, it has been reported that the idea of requesting assistance from the "welfare department" places a stigma on the program and many who adopt without active involvement of the state agency are said to be disinclined to apply for reimbursement of program benefits.

As part of an incentive plan to encourage adoption of children with special needs, the current reimbursement program's impact would appear to be minimal. Of the 29 states that set the maximum reimbursement at $2,000, only four report that amount as the average amount paid. Several explanations are offered for this situation, and the fact that the other 21 states that have established reimbursement levels have ceilings ranging from $250 to $1,500 for nonrecurring costs.

Administrators contend that a large percentage of adoption-related costs for eligible children are already covered by the state. Consequently, the amount that parents would be required to pay out-of-pocket would not (and does not) approach $2,000 in most cases. Advocates and some adoptive parents, however, make the charge that the program's anticipated benefit is limited because the types of expenses that are considered to be reimbursable do not include such necessary big-ticket items as renovation to the home to accommodate physically handicapped children. Second, it also would appear that private agencies are not particularly active in special needs adoption. As a result, the vast majority of placements are made by the states. And, as noted above, state adoption programs absorb many nonrecurring costs. Finally, administrators point to the failure of adopting parents to retain receipts and proper records of their expenditures. Reimbursement is not possible, given fiscal controls, without proof of costs incurred. Under a tax deduction or credit approach, and in the absence of an audit, documentation problems would not arise.

Current Legislative Proposals

Based on the survey results discussed above, it is clear that the current reimbursement program has not met anticipated utilization levels for a number of reasons. What is unclear, however, is if the program is actually underutilized, and if so, what changes should be made to improve the incentives for the adoption of special needs children. Administrators have pointed out that a tax credit or deduction would help eliminate much of the paperwork needed for reimbursement and could lessen the administrative burden on both the adoptive parent and the state. Administrators and others have also identified the stigma attached to applying for reimbursement through the welfare office as a possible reason for program underutilization. Providing incentives through the tax code would eliminate this problem.

The Family Preservation Act of 1991 (H.R. 2571) includes a provision (Section 601) that would repeal the current reimbursement program and establish a federal tax credit equal to 50 percent of the first $4,000 of certain nonrecurring expenses relating to the adoption of a child with special needs.

APWA finds this proposal attractive for a variety of reasons. First, the relative administrative simplicity of a tax credit would eliminate much of the administrative burden for both adoptive parents and the states. Second, the provision would place the cost of the expenses within the tax code rather than as a direct program cost currently shared between the federal and state governments. Third, since a tax credit as opposed to a deduction is available to households who do not have any federal tax liability, it would be of greater benefit to low-income families. Fourth, placing the credit in the tax code would help make it available to those who adopt without active involvement of the state agency and may be disinclined to apply for program benefits. Finally, a federal tax credit would equalize the level of benefits across the nation and could help to reduce financial barriers faced by some families willing to adopt children with special needs.

A provision in the Administration's FY 92 proposed budget would also repeal the current reimbursement program and establish a deduction from taxable income of up to $3,000 for expenses related to the nonrecurring costs of adopting children with special needs. The provision, like the provision in the

Family Preservation Act, would eliminate many of the perceived barriers to utilization of the current reimbursement program. Since it is a tax deduction rather than a tax credit, however, it does not appear as advantageous to low-income households adopting a child with special needs and would not provide as beneficial a level of financial assistance.

APWA believes that the Subcommittee should further explore both of these options as an alternative to the current reimbursement program. We do, however, favor the tax credit approach contained in the Family Preservation Act of 1991 (H.R. 2571).

It should be noted that there are several other legislative proposals that would replace the current reimbursement program with a tax deduction or tax credit. These bills (H.R. 1515, H.R. 1753, and S.709) would, however, apply to the nonrecurring expenses of adopting <u>any</u> child--as opposed to only children with special needs.

According to the July 1991 report of the Voluntary Cooperative Information System (VCIS) administered by APWA, the number of children with special needs increased from 47.4% of children awaiting adoption in FY 84 to 65.5% in FY 87. The report states that "these figures suggest that finding adoptive homes for children with special needs became more difficult in recent years." Given this increase in the number of children with special needs awaiting adoption, APWA supports the continued focus on providing incentives to parents who adopt children with special needs. It is clearly more difficult to find and encourage adoptive families for children with special needs. Targeting incentives to these adoptive parents should remain a priority.

Prepared by:

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State Reimbursement of Nonrecurring Adoption Costs -- May 1991

State	Has your state implemented the reimbursement program?	Maximum Payment	Average Estimated Payment (if known)
Alabama	Yes	$1,000	$ 350
Alaska	Yes	2,000	1,200
Arizona	Yes	2,000	2,000
Arkansas	Yes	1,500	100
California	Yes	400	400(a)
Colorado	Yes	800	250
Connecticut	Yes	750	90
Delaware	Yes	2,000	300
District of Columbia	No(b)(t)	2,000	
Florida	Yes	1,000	400
Georgia	Yes	700	400
Hawaii	Yes	2,000	N/A
Idaho	Yes(c)	2,000	
Illinois	Yes	1,500	N/A
Indiana	Yes	1,500	635
Iowa	Yes	(d)	700
Kansas	Yes	2,000	N/A
Kentucky	Yes	1,000	378
Louisiana	Yes	1,000	400
Maine	No(e)(t)		
Maryland	Yes	2,000(f)	N/A
Massachusetts	Yes	2,000	400
Michigan	No(g)(t)	2,000	
Minnesota	Yes	2,000(h)	2,000
Mississippi	Yes	1,000	500
Missouri	No(*)	2,000	

NOTE: *Italics denote Compact party states*

Results of a survey conducted by the Secretariat to the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance, Inc

STATE	HAS YOUR STATE IMPLEMENTED THE REIMBURSEMENT PROGRAM?	MAXIMUM PAYMENT	AVERAGE ESTIMATED PAYMENT (IF KNOWN)
Montana	Yes	$2,000	$1,000
Nebraska	Yes	1,500	N/A
Nevada	Yes	250	250
New Hampshire	Yes	2,000	2,000
New Jersey	Yes	2,000(i)	N/A
New Mexico	Yes	2,000	500
New York	Yes	2,000	500
North Carolina	No(j)(*)	2,000	
North Dakota	Yes	2,000(k)	350
Ohio	Yes	2,000	761
Oklahoma	Yes	2,000	2,000
Oregon	Yes	2,000	300
Pennsylvania	Yes(l)	2,000	
Rhode Island	Yes	1,000	N/A
South Carolina	Yes	1,500	750
South Dakota	Yes	1,500	650
Tennessee	Yes	2,000	700
Texas	Yes	1,500	N/A
Utah	Yes	2,000	327
Vermont	Yes	2,000	1,500
Virginia	Yes	2,000	280
Washington	Yes	1,500	655
West Virginia	No(m)(t)		
Wisconsin	Yes	2,000	500
Wyoming	Yes	2,000	350
AVERAGES	XXX	$1,659	$682

NOTE: *Italics denote Compact party states*

Results of a survey conducted by the Secretariat to the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance, Inc.

Footnotes

a) ***California:*** Out of 58 counties only 28 are involved in adoption because of cost; counties have the option not to do it.

b) ***Washington, D.C.:*** Need enabling legislation and administration is urging that be done.

c) ***Idaho:*** Legislation has recently been passed and is now awaiting governor's signature. Amount indicated is proposed.

d) ***Iowa:*** Any amount over $500 has to be submitted to department for approval. This procedure has had the effect of discouraging reimbursements over $500.

e) ***Maine:*** Reimbursement is being provided through purchase of service or paying attorney fees through subsidy.

f) ***Maryland:*** Up to 12 times the subsidy rate may be paid under state program; if the children qualify for this program it includes renovations to home.

g) ***Michigan:*** The legislation has been drafted. The development of the procedures and the policy have yet to be completed.

h) ***Minnesota:*** Most expenses exceed $2,000, especially for travel.

i) ***New Jersey:*** On average $1,500 is the maximum paid for private adoptions; legal fees for public adoptions average $359 - $375.

j) ***North Carolina:*** The reimbursement plan is to be implemented 6/1/91. Amount indicated is the proposed amount.

k) ***North Dakota:*** Home-study covered under separate program.

l) ***Pennsylvania:*** Has issued regulations as of 10/90. Nonrecurring expenses are being submitted for reimbursement. An "informal" policy is in place.

m) ***West Virginia***: Implementation target date is 1/92.

<u>Other notes</u>:

*) State has not implemented the reimbursement program; amount indicated is the proposed amount.

t) Legislation is necessary to authorize reimbursement for costs; amount indicated is the proposed amount.

N/A) Information not available.

Catholic Charities USA

September 4, 1991

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: Written comments on a tax credit for certain nonrecurring expenses relating to adoption of a child with special needs.

Dear Mr. Leonard,

Catholic Charities USA supports with qualifications Section 601 of H.R. 2571 and the Administration's income tax deduction proposal for the adoption of a special needs child.

Catholic Charities USA is a nationwide network of 1200 agencies and institutions and several hundred thousand volunteers and staff who provide services, advocate for the poor, and join forces with others to work for a just and peaceful society. Catholic Charities USA member agencies provided adoption services to 41,027 families in 1989. A total of 3,794 adoptions were completed; of these, 961 involved children with special needs and 482 were international adoptions.

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In requesting comments from member agencies, the following statements were submitted on behalf of the Catholic Charities USA Pregnancy and Adoption Committee.

Helen L. Prim, ACSW, LSW, Administrator of the Pregnancy and Adoption Services Department at Catholic Social Services in Philadelphia made the following comments:

> Pennsylvania does allow medical assistance, and in some cases financial reimbursement to adoptive parents of children with special needs. There are gaps in funding available to special needs adoptions.
>
> Special needs children do require adoptive parents to take on added financial responsibilities. Due to their physical and emotional disabilities, it may require the parents to take time away from their jobs and/or assume major medical expenses not covered under insurance.
>
> In view of this, as well as the fact that many states do not provide as much as Pennsylvania, it would be advantageous for permanent planning to the 30,000 children in the foster care system to have federal assistance for those who adopt children with special needs. A tax deduction and tax credit would be an ideal way to reach those families who reside in states which don't provide assistance as well as fill in the gaps in areas where states do provide assistance.

Lexann Downey-Lewis, Adoption Services Coordinator at Catholic Social Services is Tucson, Arizona made the following comments:

> Arizona now gives families up to $2,000 cash for special needs adoptions. The tax credit should be graduated so that it would benefit families with limited incomes.

Thank you for the opportunity to comment on these proposals. I look forward to working with you on issues of mutual concern.

Sincerely,

Joe Heiney-Gonzalez

Joe Heiney-Gonzalez
Deputy to the President

JHG/lmc

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August 28, 1991

Hon. Charles B. Rangel
Chairman
Subcommittee on Select Revenue Measures
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the Child Welfare League of America and its 650 member agencies, in response to your request for comments on (1) section 601 of the Family Preservation Act of 1991 (H.R. 2571), introduced by Rep. Tom Downey, which would provide for a tax credit equal to 50 percent of the first $4,000 of certain non-recurring adoption expenses; and (2) President Bush's budget proposal to allow a deduction of up to $3,000 for similar expenses.

CWLA wishes to commend you for undertaking this review of special needs adoption assistance. The number of children in substitute care has increased by nearly 50 percent over the past five years; a rising proportion of these children have been struggling since birth with the legacy of inadequate prenatal care, or exposure to drugs, alcohol or HIV infection. While adoption may not be the answer for all such children or other children with special needs, tens of thousands would benefit by placement in permanent, loving adoptive homes.

Both President Bush and Mr. Downey deserve recognition for elevating the plight of hard-to-place children in the national child welfare reform debate. But because we do not believe that family income should be a relevant factor in determining the ability of prospective adoptive parents to provide secure, caring homes for children, we believe that the credit proposed in H.R. 2571 would more appropriately encourage the placement of children with special needs.

The superiority of a tax credit over a deduction has long been recognized as a superior means of encouraging policy objectives when low and moderate-income individuals are involved. The tendency for a deduction to provide greater benefits to upper income applicants was specifically cited in the General Explanation of the Tax Reform Act of 1986 as a reason for the previous deduction's repeal. The fact that

the deduction is available only to taxpayers who itemize further restricts its use by the low or moderate-income applicant.

The credit in H.R. 2571 would offer parents greater financial assistance, dollar for dollar, than the deduction described in the President's fiscal 1992 budget. H.R. 2571 extends a credit of 50 percent for up to $4,000 of non-recurring expenses associated with adopting a special needs child -- a return of $50 for every $100 spent. In contrast, the $3,000 ceiling on the President's deduction is lower, and even at the top tax rate, would offer parents a return of only $31 on any $100 expenditure.

Moreover, currently over one-half of the children free for adoption and awaiting placement are minority children. CWLA strongly believes that placement with a family of similar ethnic and cultural background to the child is critical to the child's sense of identity and self-esteem. While minority status certainly is not synonymous with lack of income, the income of many minority families would preclude them from taking advantage of the assistance offered through a deduction. We do not feel that it is in the best interest of children to set up barriers to placement in environments similar to their own.

Finally, we would suggest only one revision to this otherwise estimable provision of H.R. 2571, and that is to include language making the credit refundable for families who have no tax liability. Family strength, not income, is currently the principle determinant of a family's suitability to receive an adopted child. As such, a family without tax liability could -- and should if circumstances warrant -- be approved for adoption. A refundable credit would allow this family to more easily shoulder the extraordinary financial burden that accompanies the decision to adopt.

While CWLA regards H.R. 2571 as the best vehicle to encourage the adoption of special needs children, we applaud your decision to examine all proposals to further this important policy objective and appreciate this opportunity to comment. We look forward to further communication with Ways and Means Committee members on child welfare reform, and swift approval of H.R. 2571.

Sincerely,

David

David S. Liederman
Executive Director

27 August, 1991

John M. Cox
224 E. Delwood St.
Morton, IL 61550
home ph.: (309) 263–7574
work ph.: (309) 578–6201

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways & Means
U.S. House of Representatives

Dear Mr. Leonard:

I have recently heard that the House Ways & Means subcommittee on Select Revenue Measures is about to consider legislation that would provide tax benefits for families adopting children. As an adoptive parent myself, I am very glad to see the Congress addressing this important issue. However, I have also heard that the only bills being considered are H.R. 2571 (Rep. Downey's bill), and the President's Budget Proposal.

I agree with Adoptive Families of America, which has some 15,000 member adoptive families nationwide, that both of these proposals fall far short of meeting the needs of both adoptive children and families, because they restrict the tax relief to cases of "special needs" children only. It is left up to the states to decide what children are classified as special needs. I strongly believe that any child without a permanent, loving family has a special need – and any federal tax legislation should include that child without regard to sex, race, religion, ethnic origin, sibling group size, or disability.

The Fairness for Adopting Families Act, H.R. 1515 (Rep. Wm. Lehman), shares this perspective. It provides up to a $5,000 tax deduction for legitimate adoption expenses, and applies to ALL legal, non–relative adoptions – special needs, healthy child, or international, within certain income limits. In addition, it encourages private employers to establish adoption benefits programs for their employees.

The Fairness bill is exactly that – it helps to ease what is today a very unfair situation for adoptive families. Contrast adoption against the "normal" method of building a family: in a great number of cases, most of the medical expenses are paid by the employer's medical insurance, and any remainder would be deductible under the current tax code. Currently very few employers offer adoption benefits, and there is no tax deduction for the vast majority of adoptions. Adoption costs are rising dramatically – putting adoption out of reach for many families who would love to adopt a child. Family wealth should not be the major determining factor in adopting a child; and while I certainly support special needs adoptions, a family of average means should not be restricted to adopting only a special needs child.

Therefor, I urge the committee to consider the true needs of both adoptive children and families by supporting the Fairness for Adopting Families Act.

Sincerely.

John M. Cox

John M. Cox

Family Research Council®
Gary L. Bauer, President

August 28, 1991

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D. C. 20515

Dear Mr. Leonard:

The Family Research Council is the political division of Focus on the Family, an organization devoted to the preservation of the American family headed by nationally-known child psychologist and author, Dr. James Dobson. Dr. Dobson has a radio program that is currently the number one syndicated radio program in the nation appearing on over 500 stations daily. As a result, we have a constituency of well over 2 million people.

In response to Congressman Rangel's request for written comments for the record on H.R. 2571, we would like to express our strong support for any legislative action that would reduce the financial burden on families adopting children. We have long supported and promoted adoption as a good and loving way to build families. From a societal perspective, neither the government nor private individuals can afford to ignore the importance of adoption in providing loving homes for children in need.

One of the benefits of adoption is that it provides a two-parent home for children. This makes it an important institution since we are now facing a situation where 25% of our nation's children are born into single-parent homes. As you well know, the resultant social costs of the single-parenthood choice are enormous. Therefore it is imperative that our tax code -- perhaps the single most important bellwether of what the federal government values and what it does not -- restore preferential treatment for adoptive families.

There are several reasons this is so -- both philosophical and practical. We have already stated the philosophical: adoption is an invaluable social institution that deserves the full support of the federal government; that support should be reflected in the tax code.

The first practical reason we have also already alluded to: children who are adopted into a two-parent home are in a better situation for their own personal development, but they also do not end up needing the public support that many children in single-parent homes do.

The second practical reason is one of equity. Biological parents have several advantages that adoptive parents do not. I have heard many times over from consituents that the one-time, lump-sum nature of adoption fees are a difficult hurdle for many couples. Biological parents have both insurance coverage (usually) and expenses spread out over a period of time rather than one large bill. Additionally, many are able to deduct some of their expenses under the tax code. Allowing a tax benefit to adoptive couples would ease some of this inequitable burden.

For these reasons, we heartily support section 601 of H.R. 2571 -- as stated earlier, we support any move to give adoptive parents and their children tax breaks. However, this bill does have two flaws: the restriction to special-needs adoptions and the small amount of expenses allowed.

Special-needs provision

We would like to see this section expanded to include all adoptions because of the invaluable contribution all adoptions, infant or special-needs, make to the health and well-being of children. Additionally, the bill allows the states to define what "special-needs" means. This is also the case under the Title IV E Adoption Assistance Agreements and there have been serious inequities in the system as a result. Children who would ordinarily, and reasonably, qualify as special-needs are routinely denied benefits if they are placed through the private system. In light of the great need for increased privatization of special-needs adoptions (the public system is overwhelmed and notoriously inefficient at placing special-needs children) it does not make sense to perpetuate this distinction in the tax code.

Allowable expenses

Under the parameters set by H.R. 2571, the adoption tax credit would be limited to $2,000. The benefit to society engendered by the adoption of a special-needs child is far more than that. And, of course, the expenses incurred in caring for a special-needs child can be prohibitive for many couples. Adopting a special-needs child often entails taking the responsibility for ongoing medical costs. This, in particular, argues for more generous tax benefits. For instance, H.R. 1753 calls for a $5,000 tax credit for all adoptions and H.R. 1515 calls for up to a $5,000 deduction.

We would also like to point out, since we are advocating for universalizing this benefit to all adoptions, that infant adoptions now cost an average of $8,000 to $9,000. In order to be more realistic in its contribution to the ability of people to adopt, the tax benefit should be higher than $2,000.

Our comments on the President's proposal to create a $3,000 deduction for special-needs adoptions would be much the same as the above.

I appreciate the opportunity to offer these comments on the legislation under consideration and would be happy to answer any further questions that might arise as the legislative process progesses.

Sincerely,

Gary L. Bauer

Gary L. Bauer

COMMENTS BY ORRIN G. HATCH
ON THE
ADOPTION EXPENSE DEDUCTION
TO THE
HOUSE WAYS AND MEANS
SUBCOMMITTEE ON SELECT REVENUE MEASURES
August 28, 1991

Mr. Chairman, I appreciate the opportunity to submit my views to the Subcommittee on the important issue of a tax deduction for adoption expenses.

A tax deduction for adoption expenses is desperately needed, both for its substance as well as its message. It is needed by children who are awaiting to be adopted and it is needed by families who are sacrificing to finance the ever-increasing costs of adopting a child. As lawmakers, we must make sure our laws treat families formed through adoption the same as families formed biologically. As lawmakers, we must also continue to express our support for the family unit. We all agree that strong families are the key to a strong America and our support for their formation must be the cornerstone of our policy.

The two proposals being discussed both provide for financial assistance to those families adopting a special needs child. While I applaud this effort as a necessary and positive move, it is far from adequate. The real solution to the financial struggles of these families is non-discriminatory assistance to all families adopting a child.

Under these proposals, a state would have the authority to define when a child fits the special needs category. We cannot let even one child remain unadopted because he or she does not fit some state's definition of special needs. How can we discriminate against any child waiting for adoption? How can we tell a four-year-old child that he or she is not a special needs child until he or she turns five? It must be our policy that all children awaiting adoption are special, regardless of sex, race, age, religion, sibling size, or disability.

For many prospective parents, the only way to form their family is through adoption. Our laws must recognize this fact and not discriminate against these families. By limiting the tax deduction to families adopting a special needs child, we are ignoring the fate of other children needing assistance. It is only fair that this assistance be made available to all families adopting a child.

Each legal adoption is socially useful and beneficial. Each adopting family deserves our support. This is true whether the child is a healthy infant, a child with special needs, or a child from another country. We cannot arbitrarily support some children and not others. We must support all legal adoptions. I have introduced legislation that will do this, the Fairness for Adopting Families Act, S.709. This bill would provide a tax deduction for all legal adoptions, not just those involving special needs children.

The costs associated with adopting a child are simply prohibitive to many seeking to do so. Prospective parents are often required to pay not only court and attorney fees but also expenses for maternity home services, hospital and physician costs, and at times, prenatal care expenses for the birth mother. Data provided by the National Committee for Adoption show that the actual costs connected with legal adoptions often exceeds $15,000. One family in my home state of Utah illustrates the financial burden an adoption can place on a family. This family was in the process of adopting a foreign infant. All of the paperwork had been filed with the appropriate agencies when they discovered that they were required to pay a lump sum of $13,000 in just a short period of time. This was a significant amount of

money for this middle class family and they concluded that they could not continue to finance the adoption. Their insurance company would reimburse them for $3,000 of this, but only after the adoption was finalized. This was too little, too late. This family just could not afford to continue with the adoption and had to discontinue the proceeding. This situation should not have to happen. Family wealth should not be the determinative factor in adopting a child. Allowing the deduction for all legal adoptions recognizes the importance of the family unit by alleviating many of the cost barriers associated with adoption.

In addition, a deduction for all legal adoptions will save our society money. The National Committee for Adoption has shown savings in two ways. First, it would move thousands of children who might otherwise have lingered in foster care into loving homes. Second, the tax deduction encourages shifting medical costs to the adopting family and away from the more expensive AFDC and Medicaid systems.

Making the deduction available to all families adopting a child will do a great deal to help children of minority racial or ethnic backgrounds who are awaiting adoption. Currently, healthy babies who are of a minority racial or ethnic background frequently wait for years in foster care simply because of economic factors. Often, these children do not meet the definition of a special needs child in the state where they reside. Many of the families who want to adopt these children have very modest incomes and need tax breaks to help them form their families and to offer permanent loving homes to these children. Do we want to deny these children our support because they are healthy or under five years of age?

I strongly encourage the Committee to support a tax deduction for all legal adoptions. We are representatives of a society that professes a commitment to ensure the success of the family. The tax code should demonstrate that commitment by allowing the deduction for all adoptions. I realize that the Budget Enforcement Act places severe restrictions on tax legislation that is scored as losing revenue. But, I really believe a comprehensive adoption deduction will save the Treasury money -- not lose it. Moving children from social services to private families will save money. By providing safe happy homes, we will save the huge social costs that come from poorly adjusted children.

Again, I commend the Committee for inviting these comments and exploring this issue. The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. All adoption is good, not just the adoption of children arbitrarily defined as having special needs. An expanded tax deduction will greatly benefit not only children and families but society as a whole. A relatively small dollar investment in this deduction will move us a long way toward strengthening the American family.

CONGRESSMAN BILL LEHMAN
TESTIMONY
SUBCOMMITTEE ON SELECT REVENUE MEASURES OF
THE COMMITTEE ON WAYS AND MEANS
AUGUST 23, 1991

Mr. Chairman, thank you for giving me the opportunity to submit testimony before this Subcommittee on the important issue of tax relief for families seeking to adopt children.

I applaud the Subcommittee's recognition that this is an important children's and family issue. I support the need for more meaningful federal assistance for special needs and other adoptable children. I am an original cosponsor of the Omnibus Adoption Act of 1991, which includes a tax credit for all non-relative adoptions. My major concern is to have the issue of children-in-crisis addressed. **This is an emergency. Let us resolve to do something.** The form the solution takes, be it a tax credit or deduction, is negotiable.

Let me preface my remarks with why I regard the situation of children without permanent families to be an emergency. There are over 250,000 children who have "a specific condition or situation, such as ethnic background, age, membership in a sibling group, or mental or physical handicap, which prevents placement without special assistance," and more than 100,000 other adoptable children. There are an estimated two million individuals and couples hoping to adopt a child. The demand to adopt these children exists. Since the mid-1980s, homelessness, AIDS, teen pregnancy, alcohol abuse and the widespread crack cocaine epidemic have combined to overwhelm the child welfare system. Reports of child abuse and neglect more than doubled over the past decade -- abuse which, as studies have shown, primarily affects children who have not been defined as having special needs, but who are in a more acute, higher risk category.

Simultaneously, foster-care caseloads have been rising, while the number of available foster families has declined. "Boarder babies" of drug-addicted or AIDS-infected mothers are being abandoned in hospitals in horrifying numbers. Preventive and support services have grown by only 54% between fiscal years 1981 and 1990, where costs for the federal foster care program rose by 122%. In addition, the maze of adoption laws -- in no two states are the laws exactly the same -- inhibit prospective parents from adopting children supported by public agencies, provide disincentives to the state agencies for releasing children for adoption, and thereby increase the human and financial costs of adoption.

The idea of helping these children and would-be parents has broad bipartisan appeal. President Bush himself has noted the urgency of the problem and promised, in his 1991 State of the Union address, to help create a tax deduction for special needs adoption expenses only. This promise is as yet unfulfilled. It is time for a major commitment on the part of the federal government, especially the legislative branch, to move in support of avenues which provide children with permanence and a sense of stability in their lives, enabling them -- and our society -- to thrive.

Having worked for over a decade to provide a modest tax deduction for reasonable and necessary costs of legal adoptions, the Ways and Means Committee had not previously given a deduction proposal the attention it deserves. I am aware of the difficulties many hopeful, would-be parents encounter in meeting initial adoption-related expenses. Most of these parents can afford the day-to-day costs of raising a family, but are hard put to come by the average $5,000 to $10,000 needed for adoption agency fees, attorney and court fees, and, in some cases, medical costs. The tax reforms of the 1980s eliminated a very narrow tax deduction for adoption, giving the states the authority to implement reimbursement programs. However, most states have not done so. In the past, eligibility for the now-elminated small deduction was only open to parents adopting special needs children receiving public assistance and could be affordably adopted via state agencies. In a final blow, the Congress threw the financial burden onto the states, allowing reimbursement only for non-recurring expenses, although there are no such fees in adoptions conducted through state agencies.

I am also concerned about the so-called distinction between special needs and other adoptable children. All children without a home are special needs children. Physically healthier children, but at substantial child abuse and mental health risk have been relegated to second class status by such false distinctions within an already overburdened child welfare system, where statistics on even the number of children in foster care are sketchy at best. As a result of this "penny wise, pound foolish" fiscal and social attitude, we are condemning thousands of children to hopeless childhoods in often serial temporary foster care homes, creating long-term emotional and psychological dysfunctions.

Ten years ago I first introduced legislation addressing the costs of adoption. And again, on March 20, 1991 with my colleagues Mr. Rangel, Mrs. Schroeder, Mr. Wolf, and Mr. Smith, I introduced H.R. 1515, the "Fairness for Adopting Families Act," which would authorize a modest income tax deduction for reasonable and necessary adoption expenses. The deduction would be disallowed for families whose annual net income is above $70,000; also excluded are expenses related to spousal adoption of stepchildren, the most numerous adoptions that take place in the U.S. In addition, to encourage private companies to assist their employees to adopt, adoption expenses reimbursed by employers would not be included in the employee's gross income.

This legislation has been placed in limbo year after year. While no official tax estimate has been taken, the cost of this deduction would be negligible with these exclusions. In fact, the resulting increase in adoptions not only would provide deserving children with loving family environments, it would save the government money by removing the dependency of these children on publicly-funded services such as foster care and Medicaid. Each child in foster care costs taxpayers $5-10,000 a year, a program which now amounts to $2 billion. As one state child welfare agency official noted, "We are using our limited resources to provide the most expensive treatment and intervention approaches in acute family crisis. In short, we are doing too little, too late."

I believe that we should refocus our national priorities and take special interest in representing our children, with emphasis on their needs and rights. We have not done very much to encourage the development of healthy families, despite a lot of lip service to this ideal. We forget that there are many children who do not live in permanent homes with loving, nurturing parents. Just as each child -- whatever their needs -- has a right to a home, I believe that people who are eager to become adoptive parents should not be deterred by cost or undue legal ambiguities. A tax deduction or credit would allow many more of these deserving children to find permanent, nurturing homes.

A tax deduction for all children is a conservative approach and represents a good compromise to a positive yet somewhat more costly tax credit. Certainly, the crisis in childrens' welfare in our country fully justifies a tax relief for **all** legal adoptions.

Thank you.

COMMENTS OF WILLIAM L. PIERCE, PH.D., PRESIDENT NATIONAL COMMITTEE FOR ADOPTION

Founded in 1980, the National Committee For Adoption (NCFA) is a non-profit, voluntary movement to strengthen adoption and related services. NCFA has over 100 non-profit, voluntary adoption and maternity service agencies throughout the United States in membership.

In addition to providing technical assistance to our member agencies, NCFA works for the development of fair adoption policies and practices by public and private institutions. We speak on behalf of adoption and maternity services agencies as well as those individuals and families touched by adoption.

One of NCFA's goals is to eliminate the inequities of the tax code which treat family formation by childbirth differently than forming a family through adoption. The costs of adoption are prohibitive for lower income couples who can support a child but cannot afford the average $8,000-10,000 one-time costs for adoption of a child through a non-governmental agency. If costs were related to the conception, delivery and related expenses for the birth of a child, parents could in most cases itemize and deduct these medical expenses. No similar relief is currently available for adoptive families. In addition, in an adoption, the expenses are not reimbursed by insurance which is available to families who give birth, but are paid for out-of-pocket. Both of the proposals being considered by the subcommittee seek to address this problem, though in a limited way, by offering a deduction or credit to some families who adopt children with "special needs." "Special needs" refers to a category of children formerly called, somewhat inelegantly, "hard-to-place children."

We need hardly say that money should <u>not</u> be the primary criteria for selecting a family for an adoptable child. Nevertheless, unless Congress and the President act carefully in exercising their fiscal responsibilities and their responsibilities to children placed for adoption, Federal policy will imply just that. We must remember that adoption is assistance to children of parents who find themselves unable or unwilling to care for them. Every child available for adoption is a child with a special need for a loving home.

In our comments, we want to discuss several questions. First, who are the children who would be helped under these proposals, and are there problems involved in providing tax breaks only for these circumstances? Second, what are the benefits and/or drawbacks to tax deductions for adoption expenses? Third, what would we most like to see enacted?

SPECIAL NEEDS

Both H.R. 2571, the Family Preservation Act of 1991, and the President's proposal define the term 'child with special needs' as "any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act." Children who fit this definition are those whom the State has determined cannot or should not return to their homes and who have a specific factor or condition (again, as determined by the State) due to which "it is reasonable to conclude that such child cannot be placed with adoptive parents" without providing assistance.

The discretion given to the States in this section, and consequently in the two proposals which this subcommittee is considering, and the differences in their definitions, are significant enough to raise the question of fairness in Federal policy. With Federal tax dollars goes the responsibility of insuring that there is no bias or prejudice built into the program. And such bias now exists.

By making the adoption assistance program definition the working definition for a Federal income tax deduction or credit, we are treating children of a racial or ethnic minority, or with physical or mental disabilities, differently from state to state. Even within states, assistance may be qualified on whether a child is placed through a private or a public agency. NCFA questions the rationale behind using State determinations when no State money will be involved. Moreover, we see no justification for limiting the beneficiaries of the new deduction or credit to those who are already the primary beneficiaries of the various forms of assistance under Title IV-E.

If we were to see Congress enact legislation providing for a tax deduction or credit for certain expenses incurred in the adoption of a child with special needs, NCFA asks that, at a minimum, for the purposes of this law, Congress also provide a definition of 'child with special needs' that is uniform throughout the country so that no matter where a child is born or a family lives, the same considerations will be available to them in the U.S. Internal Revenue Code. Further, we ask that this legislation treat public agencies on a par with licensed private non-profit agencies for the purposes of determining which children meet the definition of 'special needs'.

DEDUCTION: BENEFITS AND DRAWBACKS

From 1981 to 1986, Congress allowed a modest deduction of up to $1,500 for the adoption of certain children with special needs. That deduction was mainly the result of pleas by adoptive parents who said: help us pay the expenses of adopting children who would otherwise cost the Federal treasury a great deal more to keep in inappropriate foster care. Though definitely a step in the right direction, the provision was not perfect. Like the proposals before us, it didn't cover all children with special needs, let alone all children who would have benefitted. The provision was complex to administer, at least partially because of the barriers erected by people within the Department of Health and Human Services and Treasury. And the provision was obviously of more benefit to persons of higher income than to those of modest income.

While the President's budget proposal represents, in our view, an important step up the ladder by reinstating the deduction which was made available in 1981 and by doubling the maximum deduction to $3,000, it would still fall short of providing the relief needed to see a significant decrease in the number of children available for adoption in foster care. Again, the proposal is limited in the children it seeks to serve and limited in the help it offers families of low- and modest-income.

If the subcommittee decides to move legislation providing a one-time deduction for adoption expenses, NCFA encourages the members to look closely at Rep. William Lehman's (D-FL) bill, H.R. 1515, the Fairness for Adopting Families Act, of which the Chairman is a cosponsor. This legislation provides for a graduated deduction of up to $5,000 for the adoption of an American child ($7,000 if the child comes from another country). This higher ceiling would allow more lower-income families to take advantage of the deduction. Though we don't presume to claim it will solve all the problems we see in the child welfare system, it will remove a significant barrier to enlarging the pool of prospective adoptive parents, and the effects of this will be seen most clearly in a larger number of adoptions from children in foster care.

NCFA'S RECOMMENDATIONS

Tax benefits should be available to all families who adopt children as all children who cannot be cared for by their biological families have special needs. Adoption of healthy

infants is largely provided through the voluntary, private sector which receives little or no government subsidy for maternity and adoption related expenses. These expenses must necessarily be passed on as a fee for service to prospective adoptive families. Many families are excluded because of the high one-time cost of adoption. The effect is that minority families who are more likely to have lower incomes find it more difficult to adopt, reducing the pool of prospective families for minority infants. Without sufficient numbers of minority adoptive families it makes it more difficult for adoption to be a viable option for minority birth parents who are unable to parent their children. A child raised by a parent without the intrapersonal and interpersonal resources to provide for his needs is more likely to enter the foster care system and eventually become a child with special needs looking for adoptive parents. Therefore, providing tax breaks for infant adoptions today will have the positive effect of reducing the number of children with special needs in need of adoption tomorrow.

While perhaps idealistic, we feel compelled to state that we support the establishment of a nonrefundable tax credit for legitimate adoption expenses over a deduction because we believe it would be even more effective. NCFA has given its full endorsement to the Omnibus Adoption Act, H.R. 1753, which was introduced by Rep. Chris Smith (R-NJ), Rep. William Lehman (D-FL) and has as cosponsors 75 other Members of Congress. Sen. Larry Craig (R-ID) introduced the companion to this bill in the Senate S. 1301. H.R. 1753 provides for a tax credit of up to $5,000 for certain expenses incurred in the legal adoption of a child.

Finally, in Congress' efforts to provide complete tax equity to adoptive families, we also ask you to exclude from the taxable income of an employee any fringe benefits received from an employer's adoption benefits plan. In addition, the employer contribution to adoption benefits plans should be treated as an ordinary and necessary business expense. These changes would make treatment of adoption expenses equitable with the treatment of medical costs for the birth of a child where the employer's contribution to an employee's health insurance plan is not taxable to the employee.

North American Council on Adoptable Children

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NACAC'S MISSION

Every child has the right to a permanent family. The Council advocates the right of every child to a permanent, continuous, nurturing, and culturally sensitive family, and presses for the legal adoptive placement of any child denied that right.

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EXECUTIVE DIRECTOR

Joe Kroll

August 8, 1991

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

The North American Council on Adoptable Children strongly supports H. R. 2571, "The Family Preservation Act of 1991" because it addresses important special needs adoption issues for which NACAC has advocated for several years. Regarding Section 601 (the credit for Certain Adoption Expenses), NACAC has supported the current program that requires States to reimburse certain costs incurred for the adoption of special needs children. If all states used the program and allowed the maximum $2,000 reimbursement, there should be no need for a deduction. Unfortunately, several states have set arbitrarily low limits (i.e California's $400 maximum reimbursement).

Federal law has been quite clear in its support for the over 30,000 children with special needs in the foster care system who are legally free for adoption. Fiscal incentives--most notably through the adoption assistance program--assure children permanent families regardless of the economic status of the adoptive parents. Ideally, parents should not have to pay fees to adopt children with special needs, but if fees are charged, they should either be reimbursed (as in the current program) or adoptive parents should be allowed to take a tax deduction.

NACAC is a national organization of adoptive parent support groups, adoption agencies, and individuals advocating for the right of every child to a permanent home.

Please call if I can be of further assistance.

Sincerely,

Joe Kroll

Joe Kroll
Executive Director

cc: Dr. Larry Schreiber, Board President
Ernesto Loperena, Public Policy Chair

October 18, 1991

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Section 601 of H.R. 2571
Family Preservation Act of 1991

Dear Mr. Leonard,

The above referenced proposal is a step in the right direction. Contrary to popular belief, there are thousands of children who need homes. Some are special needs children and others are not. The tax credit and deduction will certainly help defray the costs involved. Too bad that financial aid is not available for all who may need help in this worthwhile endeavor.

Would the Act allow this credit for bi-racial children or is it directed to handicapped children only? Once again, I applaud this effort to encourage adoption.

Sincerely,

Nina S Broyles

Nina S. Broyles
Executive-Director

nsb

adopt1\tax credit

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August 23, 1991

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Subcommittee on Select Revenue and Measures - H.R.2571- Adoption Tax credit

Dear Mr. Leonard:

I have been representing adoptive couples in private adoptions for approximately ten years placing both healthy and special needs children in high, middle and lower income families. I have reviewed H.R. 2571/S.4 currently under consideration by your committee and H.R 1515/S.709 the Fairness for Adopting Families Act and I urge you to support the Fairness bill.

Although the tax credit addressed in H.R. 2571/S.4 is a step in the right direction, recognizing the tax inequity adoptive families face, it would give a tax credit to only those families who have adopted special needs children, not all adoptive children. While special needs children do need our extra attention and assistance in finding homes, we should not do so by discriminating tax wise against all other families with adoptive children. Most children who are adopted as special needs have low expenses at the front end of the adoption process. Where special needs adoptions need financial and/or tax credit assistance is in the continual care for the child in counselling, physically and occupational therapy, and other medical assistance, which is not covered by H.R.2571/S.4. Usually special needs adoptive children qualify for a state maintenance and medicaid which in many cases does not provided for all the services needed. A greater incentive for couples to adopt a special needs child would be to require health insurance coverage of all adoptive children from birth forward and to eliminate the preexisting conditions clause as applied to those children as addressed in H.R.1753, section 801(6). The tax credit for the initial expenses is not going to be an incentive to adopt a special needs child or benefit many families who have done so, but equal health care benefits will benefit them and the child. It is, however, the families who adopt a child who is not special needs child that incur larger initial expense who could use the benefit of a tax credit or deduction.

During the last year, while most adoption expenses have

remained the same, I have had fewer couples on the lower and middle income scale be able to afford to adopt due to other financial circumstances in our economy. A couple able to conceive their own child often has a number of the expenses covered by health insurance and can benefit from tax deductions currently in place. A couple unable to conceive their own child, who chooses to build their family through adoption, bears expenses that are different from that of a regular pregnancy and child birth. In addition to the birthmother's prenatal care and delivery expenses which are not covered by the couples' health insurance, except in Kansas and Arizona, the couple also pays for a homestudy, counselling for the birthmother, lab test, often living expenses and maternity clothes for the birthmother if she is unable to continue to work due to the pregnancy, and a fee for an agency or attorney to handle the adoption and an attorney to finalize it. Since a consent for adoption can not be signed until after the birth of the child many times these expense are paid "at risk" by the couple. Simply put, should the birthmother decide not to place the child for adoption the couple is out the funds expended by them. Although that does not happen that often it is still a substantial risk for many couples to undertake. While the Fairness for Adopting Families Act does not cure all these risks it does bring those couples who build their families by adoption in closer parity with families blessed to conceive their own child.

Additionally, H.R.2571/S.4 does not standardize the definition of a special needs child nationwide. The definition of a special needs child under AFDC varies from state to state in requirements of age, ethnic background, and disability. A family in New York who many qualify for the tax credit may not have qualified if they adopted the same child in Alabama. Thus this bill would not apply equally to all children with the same special needs. All children are special and deserve permanent homes, let us treat them as such whether they are adopted or born into their families and whether they are healthy or special needs. I, therefore, urge your support for H.R.1515/S.709, The Fairness for Adopting Families Act, giving a tax deduction to all adoptive families for all adopted children. Thank you for your attention to this matter.

Very truly yours,

Susan L. Stockham-Mosca

SLSM/mm